that where the designation of a person as beneficiary in a mutual benefit association is made in pursuance of an agreement, founded upon sufficient consideration, the person so designated cannot be changed by the member, unless by reason of countervailing equities, although the rules of the order permit the member to change the beneficiary at will.

There is some conflict of authority as to the right of a member of a mutual benefit association to change the beneficiary originally designated The weight of authority is, however, that such act is permissible. *Hoept v. Supreme Lodge K. of H.,* 113 Cal., 91; *Carpenter v. Knapp,* 101 Iowa 712; *Ingersoll v. Knights of Golden Rule,* 47 Fed., 272; *Book v. Book,* 1 Ont. L. R., 86. But there is authority for the view that the beneficiary acquires a vested interest, as in an ordinary insurance policy. *Weisert v. Nuell,* 81 Ky., 336; *Love v. Clune,* 24 Colo., 237; *Black v. Valley Mutual,* 52 Ark., 201. Especially if the constitution or the certificate itself gives no power to change the original beneficiary. *Locomotive Engineers v. Winterstein,* 58 N. J. Eq. 189; *Johnson v. Hall,* 55 Ark., 874. Nevertheless, some jurisdictions, which hold generally that the member may change the beneficiary, rule that this power is lost in the case of a contract between the member and the beneficiary. *Carter v. Carter,* 35 Ind., App. 73; *Smith v. N. B. Society,* 123 N. Y., 85. And so the member cannot change the beneficiary when named in consideration of past, present, or future advances. *McGraw v. McGraw,* 190 Ill., 604; *Leaf v. Leaf.* 92 Ky. 166. Nor when the beneficiary promises to pay the assessments and does so. *Maynard v. Vanderwerker,* 24 N. Y., Sup. 932. There are, however, cases which hold that even in the case of contracts, such as above, the member retains the right to change the beneficiary, whose remedy is solely for the breach of the agreement with him. *Sabin v. Grand Lodge A. O. U. W.,* 6 N. Y., St. Rep. 151; *Sovereign Camp W. W. v. Broadwell,* 114 Mo. App. 471, on the ground that the power of appointment is a matter between him and the lodge and cannot be limited by his contract with a third person. *Learned v. Tallmadge,* 26 Barb. (N. Y.), 444.

JUDGMENT—RES JUDICATA—ACQUITTAL OF CRIMINAL OFFENSE.—STATE *v.* ROACH, 112 PAC., 150 (KAN.).—*Held,* that an acquittal upon a criminal charge is not a bar to a civil action brought against the defendant by the state, although, in order to recover, it must prove him to have been guilty of the offense.

This rule is not based on the mere fact that one proceeding is criminal and the other civil, but on the fact that in the criminal proceeding defendant's guilt must be proven beyond a reasonable doubt, while in the civil action a fair preponderance of evidence is sufficient. *U. S. v. Donald-Shulz Co.,* 148 Fed., 581; *State v. Bradnack,* 69 Conn., 212; *Riker v. Hooper,* 35 Vt., 457. As a general rule, a judgment rendered on the merits by a court of competent jurisdiction precludes and bars subsequent litigation between the same parties, or their privies, on the same cause of action. *Oman v. Stone Co.,* 134 Fed., 64; *Stearns v. Fire Ins. Co.,* 124 Mass., 61. Furthermore, the constitutional provision that no man shall be twice punished for the same offense has been held to bar the state from bring-

a civil action to enforce another penalty against a defendant who has been convicted of the same offense in a criminal proceeding. *Coffey v. U. S.*, 116 U. S., 436. But this decision has been limited by the case of *Stone v. U. S.*, 167 U. S., 178, so that it does not apply where the purpose of the civil action is dissimilar from that of the criminal proceeding. The rule laid down in the case of *Stone v. U. S., supra,* has been upheld in a great many cases. *State v. Meek,* 112 Iowa, 338; *In re Campbell,* 197, Pa., 582; *In re Attorney,* 86 N. Y. 563; *McGrath v. Board of Excise,* 18 N. Y., Sup. 884; *State v. Miller,* 48 Me., 576; *State V. Corron,* 73 N. H., 434. It is well settled that a judgment in a civil proceeding is no bar to a civil action brought by an individual against the same defendant, since a private wrong inflicted by a criminal act is not merged in the public wrong, nor is the public prosecution intended to supersede or preclude the private action. *Fowle v. Child,* 164 Mass., 210; *Breinig v. Brienig,* 26 Pa. 161. The weight of authority is that such a judgment is inadmissible as evidence in the civil action. *Doyle v. Gore,* 15 Mont., 212; *Railway Co. v. O'Quin,* 124 Ga., 357; *contra, Bankston v. Folks,* 38 La. Ann., 267.

JUDGMENT—TRANSFER TAXES—EFFECT OF JUDICIAL PROCEEDINGS IN ANOTHER STATE.—IN RE CUMMINGS' ESTATE, 127 N. Y., Sup. 109.—*Held,* that in a proceeding to impose a transfer tax on a resident decedent's estate, the state is not bound by a decision in another state, in a proceeding to which it was not a party, that decedent resided there and that his personalty was distributable according to the laws there. Ingraham, J., *dissenting.*

Under the Constitution of the United States each state is bound to give full faith and credit to the judgment of the courts of other states in the Union. But the constitutional provision does not require that one state shall within its territory, enforce the laws of another state. *Dunham v. Dunham,* 57 Ill., App. 475. The judgments of sister states are given, generally, the same effect as they have in the states where they were rendered and no more. *Cannon v. Brame,* 45 Ala., 262; *Bank of North America v. Wheeler,* 28 Conn., 433. In no case, however, are they given effect where the court had no jurisdiction. *Jones v. Warner,* 81 Ill., 343; *Pennoyer v. Neff,* 95 U. S., 714. And a court's determination of its own jurisdiction is not final. *Sheldon v. Wabash R. Co.,* 105 Felt., 785. It is the general rule that two states cannot tax at the same time the same property, nor has a state jurisdiction to tax property and interests lying outside of its borders. *Railroad Co. v. Jackson,* 7 Wall, 267. Real estate is governed by the law of the *situs* and being subject to the jurisdiction of the courts of the state where it is situated cannot be directly affected by the judgment of a court of another state. *Clarke's Appeal,* 70 Conn., 195; *Cooper v. Hayes,* 96 Ind., 386. Tangible personal property situated within a state can be taxed without regard to the residence of the owner. *People v. Board of Trustees,* 48 N. Y., 390. And it seems that the same rule governs in the case of transfer and inheritance taxes. *In re Lord's Estate,* 97 N. Y., Sup. 553; *In re Lewis' Estate,* 203 Pa., 211.